

MAY 23 2006

# "UNDER SEAL"

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

U. S. DISTRICT COURT  
W. DIST. OF N. C.

UNITED STATES OF AMERICA ) DOCKET NO. 3:05CR98-MU  
vs. )  
ANTONIO REEVES ) MOTION FOR  
 ) DOWNDWARD DEPARTURE  
 ) UNDER SEAL

NOW COMES the United States of America, by and through Gretchen C. F. Shappert, United States Attorney for the Western District of North Carolina, who moves, pursuant to 18 U.S.C. 3553(e) and to Section 5K1.1 of the Sentencing Guidelines, for a downward departure to reflect defendant's substantial assistance.

The defendant has provided substantial assistance in the investigation and prosecution of other individuals. The degree of such a reduction must be reasonable and should reflect the Court's assessment of the defendant's substantial assistance in the investigation and prosecution of others. "Substantial weight should be given to the government's evaluation of the extent of the defendant's assistance, particularly where the extent and value of the assistance are difficult to ascertain." Section 5K1.1 Application Note 3. Additionally, "the sentencing judge must . . . state the reasons for reducing a sentence under [5K1.1]." Commentary to Section 5K1.1.

### BASIS FOR MOTION AND SPECIFIC RECOMMENDATION

Section 5K1.1(a) *U.S.S.G.*, enumerates a non-exclusive list of factors the Court may consider in determining whether a downward departure should be granted and, if so, the extent of such departure. Below, the United States addresses each such relevant factor and sets forth the specific recommended reduction based on such factor.

(a)(1) the court's evaluation of the significance and usefulness of the defendant's assistance,  
taking into consideration the government's evaluation of the assistance rendered;

**Government's evaluation:** The defendant's assistance was significant. He assisted the government in the prosecution of his co-defendant, Antonio Crockett, by providing information during two "debriefs" and by testifying during Mr. Crockett's trial. The defendant also provided information about a bank robbery being investigated by the federal bureau of investigation.

(a)(2) the truthfulness, completeness, and reliability of any information or testimony provided by the defendant;

**Government's evaluation:** Complete, truthful and reliable.

(a)(3) the nature and extent of the defendant's assistance;

**Government's evaluation:** see (a)(1).

(a)(4) any injury suffered, or and danger or risk of injury to the defendant or his family resulting from his assistance;

**Government's evaluation:** None known to the government; although cooperating in a drug investigation is inherently dangerous.

(a)(5) the timeliness of the defendant's assistance.

**Government's evaluation:** His assistance was timely.

Wherefore, the United States moves the court to impose a sentence below the applicable Guideline and statutory range. The government moves that the offense level, which is currently the equivalent of level 23 (Guideline level 12 plus a mandatory 60 months is the equivalent of

level 23), be reduced to an offense level 18 without the restriction of a statutory minimum, placing the defendant, who is in criminal history category V, in the range of 51-63 months imprisonment.

**THIS RECOMMENDATION IS THE LOWEST RECOMMENDATION FOR REDUCTION BY THE GOVERNMENT. IF THE DEFENDANT'S OBJECTIONS TO THE PSR RESULT IN ANY MODIFICATION TO THE CALCULATIONS IN THE PSR, THE GOVERNMENT'S RECOMMENDATION AS TO THE "GUIDELINE RANGE" ABOVE WILL NOT BE REDUCED BY SUCH MODIFICATION.**

The United States respectfully requests the Court to depart downward from the original calculations of the PSR and impose a sentence within the range as calculated under the above recommendations.

RESPECTFULLY SUBMITTED, this the 23rd day of May, 2006.

GRETCHEN C.F. SHAPPERT  
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CERTIFICATE OF SERVICE

I hereby certify that this Motion for Downward Departure was duly served upon the defendant by electronic mail, at the following address:

jgmimms@bellsouth.net

This the 23rd day of May, 2006.

Kurt W. Meyers

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